

ORIGINAL
FILED
07 OCT 19 PM 2:43
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JUSTIN X. WANG (CSB #166183)
BAUGHMAN & WANG
111 Pine Street, Suite 1350
San Francisco, California 94111
Telephone: (415) 576-9923
Facsimile: (415) 576-9929

Attorney for Plaintiff
ERUM NAZ HUSAIN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JL

ERUM NAZ HUSAIN

C 07 5356
Case No.:

Plaintiff,

vs.

**PETITION FOR HEARING ON
NATURALIZATION APPLICATION
UNDER 8 U.S.C. § 1447(B)**

MICHAEL CHERTOFF, Secretary of the
Department of Homeland Security;
ROBERT S. MUELLER,
Director of Federal Bureau of Investigation

Defendants.

COMES NOW ERUM NAZ HUSAIN, Plaintiff in the above-styled and numbered cause,
and for cause of action would show to the Court the following:

1. This action is brought for a hearing to decide Plaintiff's naturalization application due to Defendants' failure to adjudicate the application within 120 days after the first examination in violation of the Immigration and Nationality Act ("INA") § 336(b) and 8 U.S.C. §1447(b).

PARTIES

2. Plaintiff ERUM NAZ HUSAIN, a native and citizen of Pakistan, is a lawful permanent resident of the United States (A#070 791 098). Plaintiff's Application for Naturalization, or N400, was received by the U.S.C.I.S, California Service Center on May 13, 2004 (**Exhibit 1**). Plaintiff was interviewed for her naturalization application in January 2006. Defendants have failed to make a decision on the application within 120 days after the examination.

3. Defendant Michael Chertoff is the Secretary of the Department of Homeland Security (DHS), and this action is brought against him in his official capacity. He is generally charged with enforcement of the Immigration and Nationality Act, and is further authorized to delegate such

1 powers and authority to subordinate employees of the DHS. 8 U.S.C. §1103(a); 8 C.F.R. § 2.1.

2 4. Defendant Robert S. Mueller, III, is Director of the Federal Bureau of Investigations (FBI),
3 the law enforcement agency that conducts security clearances for other U.S. government agencies,
4 such as the Department of State. As will be shown, Defendant has failed to complete the security
5 clearances on Plaintiff's cases.

6 JURISDICTION

7 5. Jurisdiction in this case is proper under the INA § 336(b) and 8 U.S.C. §1447(b). Relief is
8 requested pursuant to said statutes.

9 VENUE

10 6. Venue is proper in this court, pursuant to 8 U.S.C. §1447(b), in that Plaintiff may request a
11 hearing on the matter in the District where Plaintiff resides.

12 CAUSE OF ACTION

13 7. Plaintiff is a lawful permanent resident of the United States. Plaintiff's Application for
14 Naturalization, or N400, was received by the U.S.C.I.S, California Service Center on May 13,
15 2004 (**Exhibit 1**). Plaintiff was interviewed for her naturalization application in January 2006.
16 Plaintiff was informed in September 2006 and May 2007 that her case is pending her background
17 check (**Exhibit 2**). Plaintiff's application for naturalization has now remained un-adjudicated for
18 more than one year and nine months from the date of the interview.

19 8. Defendants have sufficient information to determine Plaintiff's eligibility pursuant to
20 applicable requirements.

21 9. Defendants, in violation of 8 U.S.C. § 1447 (b), have failed to make a determination on
22 Plaintiff's naturalization application within the 120-day period after the date of examination.

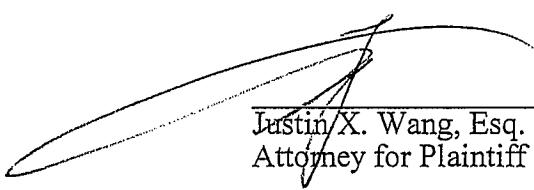
23 PRAYER

24 12. WHEREFORE, in view of the arguments and authority noted herein, Plaintiff
25 respectfully prays that the Defendants be cited to appear herein and that, upon due consideration,
26 the Court enter an order adjudicating the naturalization application. In the alternative, the Court
27 may remand requiring Defendants to immediately adjudicate Plaintiff's naturalization application.
28 In addition, Plaintiff requests an award of reasonable attorney's fees under the Equal Access to

1 Justice Act and such other relief at law and in equity as justice may require.

2 Dated: October 18, 2007

Respectfully submitted,

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Justin X. Wang, Esq.
Attorney for Plaintiff

LIST OF ATTACHMENTS

<i>Exhibit</i>	<i>Description</i>
1	N400 Fingerprint Notification
2	Two Letters from the USCIS re: Status of Application

Ex-1

UNITED STATES OF AMERICA

Fingerprint Notification			NOTICE DATE June 05, 2004
CASE TYPE N400 Application For Naturalization			INS A# A 070 791 098
APPLICATION NUMBER WSC*001153619	RECEIVED DATE May 13, 2004	PRIORITY DATE May 13, 2004	PAGE 1 of 1
APPLICANT NAME AND MAILING ADDRESS ERUM NAZ HUSAIN 34204 TORREY PINE CT UNION CITY CA 94587			
			
To process your application, INS must take your fingerprints and have them cleared by the FBI. PLEASE APPEAR AT THE BELOW APPLICATION SUPPORT CENTER AT THE DATE AND TIME SPECIFIED. If you are unable to do so, complete the bottom of this notice and return the entire original notice to the address below. RESCHEDULING YOUR APPOINTMENT WILL DELAY YOUR APPLICATION. IF YOU FAIL TO APPEAR AS SCHEDULED BELOW OR FAIL TO REQUEST RESCHEDULING, YOUR APPLICATION WILL BE CONSIDERED ABANDONED.			
APPLICATION SUPPORT CENTER INS OAKLAND 2040 TELEGRAPH AVE. OAKLAND CA 94612		DATE AND TIME OF APPOINTMENT 06/24/2004 10:00 AM	
WHEN YOU GO TO THE APPLICATION SUPPORT CENTER TO HAVE YOUR FINGERPRINTS TAKEN, YOU MUST BRING: 1. THIS APPOINTMENT NOTICE and 2. PHOTO IDENTIFICATION. Naturalization applicants must bring their Alien Registration Card. All other applicants must bring a passport, driver's license, national ID, military ID, or State-issued photo ID. If you appear without proper identification, you will not be fingerprinted.			
PLEASE DISREGARD THIS NOTICE IF YOUR APPLICATION HAS ALREADY BEEN GRANTED.			
REQUEST FOR RESCHEDULING Please reschedule my appointment for the next available: <input type="checkbox"/> Wednesday afternoon <input type="checkbox"/> Saturday afternoon INS cannot guarantee the day preferred, but will do so to the extent possible. Upon receipt of your request, you will be provided a new appointment notice. Please mail your request to: INS OAKLAND 2040 TELEGRAPH AVE. OAKLAND CA 94612  If you have any questions regarding this notice, please call 1-800-375-5283. APPLICATION NUMBER WSC*001153619			
WARNING! Due to limited seating availability in our lobby areas, only persons who are necessary to assist with transportation or completing the fingerprint worksheet should accompany you.  www. uscis. gov. /info pan info local office 1. 444 Washington St. SF			

Ex. 2

U.S. Department of Homeland Security
USCIS
630 Sansome Street
San Francisco, CA 94111



**U.S. Citizenship
and Immigration
Services**

Friday, May 4, 2007

ERUM N HUSAIN
5769 HANIFEN WAY
PLEASANTON CA 94566

Dear ERUM N HUSAIN:

On 05/03/2007 you, or the designated representative shown below, contacted us about your case. Some of the key information given to us at that time was the following:

Caller indicated they are:	The applicant
Attorney Name:	Information not available
Case type:	N400
Filing date:	05/24/2004
Receipt #:	
Beneficiary (if you filed for someone else):	HUSAIN, ERUM, N
Your USCIS Account Number (A-number):	A070791098
Type of service requested:	Case Status - Outside Processing Time

The status of this service request is:

The processing of your case has been delayed. A check of our records establishes that your case is not yet ready for decision, as the required investigation into your background remains open.

Until the background investigation is completed, we cannot move forward on your case. These background checks are required to be completed on all applicants who apply for the immigration benefit you are seeking. We will make every effort to make a decision on this case as soon as the background checks are complete. If you do not receive a decision or other notice of action from us within 6 months of this letter, please contact us by calling our customer service number provided below.

If you have any further questions, please call the National Customer Service Center at 1-800-375-5283.

Please remember: By law, every person who is not a U.S. citizen and who is over the age of 14 must also notify the Department of Homeland Security within 10 days from when they move (persons in "A" or "G" nonimmigrant status are exempt from this requirement). If you have moved, please complete a Form AR-11 and mail it to the address shown on that form. If you do not have this form, you can download it from our website or you can call the National Customer Service Center at 1-800-375-5283 and we can order one for you. If you move, please call us with your new address information as soon as your move is complete. If you have already called us and given us this information, you do not need to call again.

U.S. Citizenship and Immigration Services

U.S. Department of Homeland Security
 USCIS
 630 Sansome Street
 San Francisco, CA 94111

**U.S. Citizenship
 and Immigration
 Services**

Tuesday, September 26, 2006

ERUM N HUSAIN
 5769 HANIFEN WAY
 PLEASANTON CA 94566

Dear ERUM N HUSAIN:

On 09/26/2006 you, or the designated representative shown below, contacted us about your case. Some of the key information given to us at that time was the following:

Caller indicated they are:	The applicant
Attorney Name:	Information not available
Case type:	N400
Filing date:	05/24/2004
Receipt #:	
Beneficiary (if you filed for someone else):	HUSAIN, ERUM, N
Your USCIS Account Number (A-number):	A070791098
Type of service requested:	Case Status - Outside Processing Time

The status of this service request is:

The processing of your case has been delayed. A check of our records establishes that your case is not yet ready for decision, as the required investigation into your background remains open.

Until the background investigation is completed, we cannot move forward on your case. These background checks are required to be completed on all applicants who apply for the immigration benefit you are seeking. We will make every effort to make a decision on this case as soon as the background checks are complete. If you do not receive a decision or other notice of action from us within 6 months of this letter, please contact us by calling our customer service number provided below.

If you have any further questions, please call the National Customer Service Center at 1-800-375-5283.

Please remember: By law, every person who is not a U.S. citizen and who is over the age of 14 must also notify the Department of Homeland Security within 10 days from when they move (persons in "A" or "G" nonimmigrant status are exempt from this requirement). If you have moved, please complete a Form AR-11 and mail it to the address shown on that form. If you do not have this form, you can download it from our website or you can call the National Customer Service Center at 1-800-375-5283 and we can order one for you. If you move, please call us with your new address information as soon as your move is complete. If you have already called us and given us this information, you do not need to call again.

U.S. Citizenship and Immigration Services